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EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

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02/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<i>Office Action Summary</i>	Application No.	Applicant(s)	
	10/692,835	FENNELLY, MARTINE	
	Examiner	Art Unit	
	Son T. Nguyen	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2008.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-77,80-89,91-95 and 98-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-77,80-89,91-95 and 98-105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Upon further consideration based on the notice of panel decision from pre-appeal brief review mailed 12/30/08, the final rejection mailed on 5/13/08 has been withdrawn. A new rejection is as stated below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 70 & 103 are rejected under 35 U.S.C. 102(e) as being anticipated by Kwan et al. (2005/0060968A1).

For claim 70, Kwan et al. teach saddle pad apparatus 10 adapted to support a saddle while maintaining both substantially unimpeded movement of the spinal column of a living subject and a desirable balance of a saddle and rider, comprising: a first pad 26 disposed laterally to one side of said spine and a second pad 26 disposed laterally to the other side of said spine so that said first and second pads straddle said spinal column and are sufficiently distant therefrom so that said saddle pad apparatus does not impede movement of the spinal column of said living subject by forming a space between said spinal column and said saddle pad apparatus (see figs. 3 & 4), each of said pads being adapted to individually cooperate with a respective one of withers

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region gaps or recesses 34,36 of the anatomy of the living subject (see fig. 4); wherein said gaps or recesses are disposed in the withers region of the subject; and wherein said pads are placed at least partially within gaps or recesses in said withers region of said subject, said placement of said pads being such that said saddle and saddle pad apparatus is raised at least partly off of only said withers region of said subject, so as to substantially avoid contact of said saddle with the top of the withers, thereby substantially eliminating pressure points in said withers region and maintaining said balance. Note that paragraph [0019] of Kwan et al. teach that the pads 26 will occupied the relief area 34 upon compression, thus, the pads will be disposed or at least be "adapted" to cooperate with the gaps or recesses 34,36. Note also that pads 26 do not meet each other or do not extend into the middle area 17, according to figs. 3 & 4.

For claim 103, Kwan et al. teach saddle pad apparatus 10 adapted to support a saddle, comprising: a first pad 26 disposed laterally to one side of said spine and a second pad 26 disposed laterally to the other side of said spine, said first and second pads straddling said spinal column at a predetermined distance, said predetermined distance sufficiently distant so that said saddle pad apparatus does not impede movement of the spinal column of said living subject by forming a space between said spinal column and said saddle pad apparatus (separated by ref. 17); and wherein each of said first and second pads comprises a predetermined shape (see fig. 3, substantially triangular), said predetermined shape being disposed within a respective one of a withers region gap or recess occurring in the anatomy of said living subject such that said saddle and saddle pad apparatus is raised at least partly off of only said withers

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region of said subject. Note that paragraph [0019] of Kwan et al. teach that the pads 26 will occupied the relief area 34 upon compression, thus, the pads will be disposed or at least be "adapted" to cooperate with the gaps or recesses 34,36. Note also that pads 26 do not meet each other or do not extend into the middle area 17, according to figs. 3 & 4.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 71,80,81,84,98-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan et al. (as above) in view of Woods (5802823).

For claim 71, Kwan et al. teach at least one pad 26 (see [0019]) but are silent a third and a fourth pad so that said apparatus comprises four discrete pads, two per side of the spine.

Woods teaches in the same field of endeavor of saddle pad apparatus as Kwan et al., in which Woods' apparatus has at least four discrete pads 44-46, two per side of the spine (see fig. 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ additional pads, two per side as taught by Woods in the saddle pad apparatus of Kwan et al. so as to further provide relief for the horse due to pressure from the rider and saddle.

For claim 80, Kwan et al. teach saddle pad apparatus 10 adapted to support a saddle on a living subject, comprising: a plurality of pads 26 that distribute load from said saddle substantially evenly on said living subject to avoid contact with the living subject's spinal column over only a plurality of non-contiguous regions of said living subject's anatomy such that during riding said saddle is substantially stable around a rotational axis transverse to the longitudinal axis of the spinal column of said subject, said pads further being disposed so as to elevate only a front portion of said saddle and saddle pad apparatus during riding while maintaining said substantial stability around said axis. In addition, the pads 26 of Kwan et al. being embedded in the shell 12, thus, technically, this would create some sort of pockets to hold the pads within shell 12. Moreover, Kwan et al. teach various materials for the shell 12 and lining 22. However, if this is not the case, then Kwan et al. are silent about wherein said plurality of pads are disposed laterally to said spine in pockets formed substantially between a first layer comprising sheepskin having a pelt hair length between 3/4 inch and 1 inch, and a second layer comprising a fiber-based material, said sheepskin being disposed to contact the skin of said living subject, said fiber-based material being disposed to contact said saddle.

As mentioned above, Woods teaches the plurality of pads 16,44-46 are disposed laterally to the spine in pockets 20 formed substantially between a first layer 62 comprising sheepskin having a pelt hair length between 3/4 inch and 1 inch, and a second layer 60 comprising a fiber-based material (hard-wearing fabric and canvas are fiber-based material), said sheepskin being disposed to contact the skin of said living

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subject, said fiber-based material being disposed to contact said saddle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pads of Kwan et al. be disposed in pockets formed substantially between a first layer of material and a second layer of material as taught by Woods in order to hold in the pads and allow the user to remove and replace the pads as desired. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the first layer of Kwan et al. out of sheepskin as taught by Woods in order to provide comfort and warmth for the horse by having the sheepskin being disposed to contact the skin of said living subject.

Kwan et al. as modified by Woods are silent about the sheepskin having a pelt hair length between 3/4 inch and 1 inch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the sheepskin of Kwan et al. as modified by Woods be with a pelt hair length between 3/4 inch and 1 inch, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect (for comfort of the horse) is achieved involves only routine skill in the art.

For claim 81, as mentioned above, Woods teaches the apparatus having at least four discrete pads, two per side of the spine, each of said four pads being adapted to cooperate with a recess or gap within the anatomy of the subject. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ additional pads, two per side as taught by Woods in the saddle pad apparatus

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of Kwan et al. as modified by Woods so as to further provide relief for the horse due to pressure from the rider and saddle.

For claim 84, in addition to the above, Woods further teaches wherein said plurality of pads are made removable from said pockets via Velcro strips 67,68 disposed at seams of said pockets (see fig. 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pads of Kwan et al. as modified by Woods be made removable from pockets via Velcro strips disposed at seams of said pockets as further taught by Woods in order to allow the user to remove and replace the pads as desired.

For claim 98, Kwan et al. as modified by Woods are silent about wherein said sheepskin comprises Australian Merino sheepskin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select Australian Merino sheepskin as the preferred sheepskin in the apparatus of Kwan et al. as modified by Woods, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

For claims 99 & 100, Kwan et al. as modified by Woods are silent about wherein said sheepskin comprises a chemical treatments adapted to improve at least one of stain resistance or ultraviolet fading of said sheepskin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a chemical treatment to the sheepskin of Kwan et al. as modified by Woods in order to treat the sheepskin to rid of bacteria in the sheepskin, which is a known technique

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employed in leather or fur treatment. KSR International Co. v. Teleflex Inc., 127 S. Ct. 1727, 1739, 1740, 82 USPQ2d 1385, 1395, 1396 (2007)

6. Claims 72-75,91-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan et al. (as above) in view of Vasko et al. (4683709).

For claim 72, Kwan et al. are silent about wherein at least one of said pads varies in thickness.

Vasko et al. teach in the same field of endeavor of saddle pad apparatus as Kwan et al., in which Vasko et al.'s apparatus has at least one of said pads 36,38 varies in thickness (see fig. 8, and col. 4,lines 3-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one of the pads of Kwan et al. be varies in thickness as taught by Vasko et al. in order to allow bulk of the energy absorbing material to be concentrated where the maximum amount of shock or energy transfer is experienced (Vasko et al., col. 4,lines 7-9).

For claim 73, Kwan et al. teach the pads being made from closed cell foam, EVA foam, or open cell foam, gel filled pad or an air filled pad (see [0019]) but are silent wherein said first and second pads are formed from a visco-elastic foam material.

In addition to the above, Vasko et al. teach the pads are made from a visco-elastic foam material (col. 2, lines 65-68 and col. 3, lines 32-48). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the pads of Kwan et al. out of a visco-elastic foam material as taught by Vasko et al. in order to provide a material that can absorb a significant portion of the

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shock or energy transferred between the rider and the horse and to allow recovery before the next shock or energy transfer (Vasko et al., col. 3, lines 34-40).

For claim 74, Kwan et al. teach the pads 26 being embedded in the shell 12, thus, technically, this would create some sort of pockets to hold the pads within shell 12. However, if this is not the case, then in addition to the above, Vasko et al. teach wherein said first and second pads 36,38 are disposed in pockets 28,30 formed substantially between a first layer of material 14 and a second layer 17 of material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pads of Kwan et al. be disposed in pockets formed substantially between a first layer of material and a second layer of material as taught by Vasko et al. in order to hold in the pads and allow the user to remove and replace the pads as desired.

For claim 75, in addition to the above, Vasko et al. teach wherein said first and second pads 36,38 are made removable from said pockets 28,30 via Velcro strips 34,35 disposed at seams of said pockets. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pads of Kwan et al. be made removable from pockets via Velcro strips disposed at seams of said pockets as taught by Vasko et al. in order to allow the user to remove and replace the pads as desired.

For claim 91, Kwan et al. teach a pad element 26 comprising a plurality of substantially rounded edges (see fig. 3 for contour of pad 26) adapted for use in a saddle pad 10, wherein said pad element is formed from closed cell foam, EVA foam, or open cell foam, gel filled pad or an air filled pad (see [0019]) and is adapted for selective

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removal from said saddle pad by a user (pad 26 is adapted to be remove if one wishes to do so due to its small size); and wherein said pad element is particularly shaped to accommodate and fit substantially within a particular withers region recess on the anatomy of an animal on which said pad element and saddle pad is utilized. However, Kwan et al. are silent about the pad being made of a visco-elastic foam.

As mentioned above, Vasko et al. teach the pads are made from a visco-elastic foam material (col. 2, lines 65-68 and col. 3, lines 32-48). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the pads of Kwan et al. out of a visco-elastic foam material as taught by Vasko et al. in order to provide a material that can absorb a significant portion of the shock or energy transferred between the rider and the horse and to allow recovery before the next shock or energy transfer (Vasko et al., col. 3, lines 34-40).

For claim 92, Kwan et al. are silent about wherein said pad element has a plurality of densities associated therewith in its uncompressed state.

As mentioned above, Vasko et al. teach wherein said pad element 36 has a plurality of densities associated therewith in its uncompressed state (see fig. 8, and col. 4, lines 3-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pads of Kwan et al. be with plurality of densities associated therewith in its uncompressed state as taught by Vasko et al. in order to allow bulk of the energy absorbing material to be concentrated where the maximum amount of shock or energy transfer is experienced (Vasko et al., col. 4, lines 7-9).

For claim 93, in addition to the above, Vasko et al. teach wherein said plurality of densities are substantially stratified with respect to the width dimension of said element (see figs. 5-7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pads of Kwan et al. be with plurality of densities that are substantially stratified with respect to the width dimension of said element associated therewith in its uncompressed state as taught by Vasko et al. in order to allow bulk of the energy absorbing material to be concentrated where the maximum amount of shock or energy transfer is experienced (Vasko et al., col. 4, lines 7-9).

7. Claims 76-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan et al. as modified by Vasko et al. as applied to claims 70, 74 above, and further in view of Woods (5802823).

For claim 76, Kwan et al. as modified by Vasko et al. teach the material for the layers ([0018] of Kwan et al. and col. 2, lines 48-49 of Vasko et al., wool felt of Vasko et al. is considered to be a fiber-based material) but are silent about the first layer comprises sheepskin, said sheepskin being disposed to contact the skin of said living subject.

In addition to the above, Woods teaches the saddle pad having a material 62 being sheepskin disposed to contact the skin of said living subject. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the first layer of Kwan et al. as modified by Vasko et al. out of sheepskin

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as taught by Woods in order to provide comfort and warmth for the horse by having the sheepskin being disposed to contact the skin of said living subject.

For claim 77, Kwan et al. as modified by Vasko et al. and Woods teach wherein said living subject comprises an equine.

8. Claims 82,83,85,86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan et al. as modified by Woods as applied to claim 80 above, and further in view of Vasko et al. (as above).

For claim 82, Kwan et al. as modified by Woods are silent about wherein at least one of said pads varies in thickness.

As mentioned in the above, Vasko et al.'s apparatus has at least one of said pads 36,38 varies in thickness (see fig. 8, and col. 4,lines 3-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one of the pads of Kwan et al. as modified by Woods be varies in thickness as taught by Vasko et al. in order to allow bulk of the energy absorbing material to be concentrated where the maximum amount of shock or energy transfer is experienced (Vasko et al., col. 4,lines 7-9).

For claim 83, Kwan et al. as modified by Woods are silent about wherein at least a portion of said plurality of pads are formed from a visco-elastic foam material.

As mentioned in the above, Vasko et al. teach the pads are made from a visco-elastic foam material (col. 2, lines 65-68 and col. 3, lines 32-48). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the pads of Kwan et al. as modified by Woods out of a visco-elastic foam

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material as taught by Vasko et al. in order to provide a material that can absorb a significant portion of the shock or energy transferred between the rider and the horse and to allow recovery before the next shock or energy transfer (Vasko et al., col. 3, lines 34-40).

For claim 85, Kwan et al. as modified by Woods and Vasko et al. teach wherein said living subject comprises an equine.

For claim 86, Kwan et al. as modified by Woods and Vasko et al. (emphasis on Kwan et al.) teach wherein said apparatus is further adapted to support said saddle while maintaining substantially unimpeded movement of the spinal column of said living subject.

9. Claims 87-89,94,95,101,102,104,105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan et al. (as above) in view of Woods (as above) and Vasko et al. (as above).

For claim 87, Kwan et al. teach a saddle pad adapted for use with a saddle on a high-withered equine, comprising: first and second substantially flexible elements 12,22,28 having roughly the same shape, said first and second elements being bound together in at least a plurality of locations along their periphery; and a plurality of pad elements 26 disposed between said first and second flexibly elements, said pad elements straddling the spine of said equine at a distance whereby said saddle pad is not in contact with the spinal column of said equine during riding, wherein said pad elements are disposed and configured to substantially fill respective ones of gaps that occur on the anatomy of said high-withered equine in its withers region, thereby

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substantially relieving this region from excessive pressure and contact with said saddle in a gullet channel which would otherwise exist without said pad elements; and wherein said unimpeded spine movement, said frustration of redistribution, and said first flexible element cooperate to provide reduced discomfort for said equine during said riding.

Note that paragraph [0019] of Kwan et al. teach that the pads 26 will occupy the relief area 34 upon compression, thus, the pads will be disposed or at least be adapted to cooperate with the gaps or recesses 34,36. Note also that pads 26 do not meet each other or do not extend into the middle area 17, according to figs. 3 & 4. However, Kwan et al. are silent about said first element comprising a sheepskin and being in direct contact with the skin of said equine, and the pad being compressible visco-elastic foam.

As mentioned above, Woods teaches sheepskin being in direct contact with the skin of said equine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the first layer of Kwan et al. out of sheepskin as taught by Woods in order to provide comfort and warmth for the horse by having the sheepskin being disposed to contact the skin of said living subject.

As mentioned above, Vasko et al. teach the pad being compressible visco-elastic foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the pads of Kwan et al. out of a visco-elastic foam material as taught by Vasko et al. in order to provide a material that can absorb a significant portion of the shock or energy transferred between the rider and the horse and to allow recovery before the next shock or energy transfer (Vasko et al., col. 3, lines 34-40).

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For claim 88, in addition to the above, Vasko et al. teach at least one peripheral ridge 19 disposed substantially along a front or back periphery of said first and second elements, said peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ at least one peripheral ridge as taught by Vasko et al. along a front or back periphery of said first and second elements of Kwan et al. as modified by Woods and Vasko et al. in order to bind the first and second elements together and to further reinforce the saddle pad.

For claim 89, Kwan et al. teach a saddle pad 10 adapted for use, with a saddle, on an equine, comprising: first and second substantially flexible elements 12,22,28 having roughly the same shape, said first and second elements being bound together in at least a plurality of locations along their periphery, and said second element 12 comprising a fiber-based material (see [0018] wool, sheep skin and cotton are all fiber-based material) disposed to contact said saddle; a plurality of pad elements 26 disposed between said first and second flexible elements, said plurality of pad elements having a first shape (see fig.3 for shape) and adapted to straddle the spine of said equine with at least a portion of said plurality disposed within said saddle pad and sufficiently distant from said spine such that the movement of the spine of said equine is substantially unimpeded by said saddle and said pad elements during riding, first and second restraining straps 38,42 affixed to at least said second flexible element, said straps each being adapted for substantially concealed tethering to said saddle; wherein

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said pad elements are adapted to interface only with gaps formed in the withers region of said equine so as to prop up only a front portion of said saddle and saddle pad and provide a substantially invariant relationship between said saddle and said equine during mounted ambulation of said equine. However, Kwan et al. are silent about said first element comprising sheepskin in direct contact with the skin of said equine; the pad being compressible visco-elastic foam; and at least one peripheral ridge disposed substantially along a front or back periphery of said first and second elements, said peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding.

As mentioned above, Woods teaches sheepskin in direct contact with the skin of said equine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the first layer of Kwan et al. out of sheepskin as taught by Woods in order to provide comfort and warmth for the horse by having the sheepskin being disposed to contact the skin of said living subject.

As mentioned above, Vasko et al. teach the pad being compressible visco-elastic foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the pads of Kwan et al. out of a visco-elastic foam material as taught by Vasko et al. in order to provide a material that can absorb a significant portion of the shock or energy transferred between the rider and the horse and to allow recovery before the next shock or energy transfer (Vasko et al., col. 3, lines 34-40). In addition, Vasko et al. teach at least one peripheral ridge 19 disposed

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substantially along a front or back periphery of said first and second elements, said peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ at least one peripheral ridge as taught by Vasko et al. along a front or back periphery of said first and second elements of Kwan et al. as modified by Woods and Vasko et al. in order to bind the first and second elements together and to further reinforce the saddle pad.

For claim 94, Kwan et al. teach apparatus adapted for use on high-withered animals, comprising: a substantially flexible pad 26 comprising a plurality of pockets (the pads 26 of Kwan et al. being embedded in the shell 12, thus, technically, this would create some sort of pockets to hold the pads within shell 12) formed substantially between a first layer 22; comprising cotton, wool, or nylon (see [0026]) and a second layer 12 comprising fiber-based material (see [0018] wool, sheep skin, cotton are all fiber-based material), said fiber-based material being disposed to contact a saddle; a plurality of pad elements 26 captured by respective ones of said pockets; wherein said pad elements and said pad are disposed within gaps created by said withers region and cooperatively form a raised feature element to raise only a frontal portion of a saddle and said apparatus disposed over top of said pad elements with respect to a withers region in order to mitigate tilting or rocking of the saddle. However, Kwan et al. are silent about the first layer being sheepskin disposed to contact the skin of said high-withered animals; and the pad being visco-elastic foam.

As mentioned above, Woods teaches sheepskin in direct contact with the skin of said equine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the first layer of Kwan et al. out of sheepskin as taught by Woods in order to provide comfort and warmth for the horse by having the sheepskin being disposed to contact the skin of said living subject.

As mentioned above, Vasko et al. teach the pad being compressible visco-elastic foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the pads of Kwan et al. out of a visco-elastic foam material as taught by Vasko et al. in order to provide a material that can absorb a significant portion of the shock or energy transferred between the rider and the horse and to allow recovery before the next shock or energy transfer (Vasko et al., col. 3, lines 34-40).

In addition, in the event that Applicant does not believe that Kwan et al. teach pockets. Both Woods and Vasko et al. teach pockets as mentioned above. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pads of Kwan et al. be disposed in pockets formed substantially between a first layer of material and a second layer of material as taught by either Woods or Vasko et al. in order to hold in the pads and allow the user to remove and replace the pads as desired.

For claim 95, Kwan et al. as modified by Woods and Vasko et al. (emphasis on Kwan) further teach a pad interface 20,28,32 adapted to interface between said pad and

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said animal, said pad interface adapted to (i) dissipate localized pressure; (ii) dissipate heat; and (iii) dissipate moisture.

For claim 101, Kwan et al. as modified by Woods and Vasko et al. are silent about wherein said second substantially flexible element comprises square quilted fabric, said fabric providing reduced bunching of the second element under said saddle during use. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ square quilted fabric, said fabric providing reduced bunching of the second element under said saddle during use as the preferred material for the second flexible element in the pad element of Kwan et al. as modified by Woods and Vasko et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

For claim 102, Kwan et al. as modified by Woods and Vasko et al. are silent about wherein said sheepskin comprises Australian Merino sheepskin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ Australian Merino sheepskin as the preferred sheepskin in the pad element of Kwan et al. as modified by Woods and Vasko et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice

For claim 104, Kwan et al. teach a saddle pad 10 adapted for use with a saddle on a high-withered equine, said high-withered equine having a plurality of gaps in its withers region (see fig. 4), comprising: first and second substantially flexible elements

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22,12 having roughly the same shape, said first and second elements being bound together in at least a plurality of locations along their periphery; and a plurality of pad elements 26 disposed between said first and second flexibly elements, said pad elements straddling the spine of said equine at a distance whereby said saddle pad is not in contact with the spinal column of said equine during riding; wherein said pad elements comprise a three dimensional profile (the pad having a depth, length, width to create a 3-D object), said three dimensional profile fitting within respective ones of said gaps. Note that paragraph [0019] of Kwan et al. teach that the pads 26 will occupied the relief area 34 upon compression, thus, the pads will be disposed or at least be adapted to cooperate with the gaps or recesses 34,36. Note also that pads 26 do not meet each other or do not extend into the middle area 17, according to figs. 3 & 4. However, Kwan et al. are silent about said first element comprising a sheepskin and being in direct contact with the skin of said equine, and the pad being compressible visco-elastic foam.

As mentioned above, Woods teaches sheepskin in direct contact with the skin of said equine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the first layer of Kwan et al. out of sheepskin as taught by Woods in order to provide comfort and warmth for the horse by having the sheepskin being disposed to contact the skin of said living subject.

As mentioned above, Vasko et al. teach the pad being compressible visco-elastic foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the pads of Kwan et al. out of a visco-elastic foam material as taught by Vasko et al. in order to provide a material that can absorb a

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significant portion of the shock or energy transferred between the rider and the horse and to allow recovery before the next shock or energy transfer (Vasko et al., col. 3, lines 34-40).

For claim 105, Kwan et al. teach a saddle pad 10 adapted for use, with a saddle, on an equine, comprising: first and second substantially flexible elements 22,12 having roughly the same shape, said first and second elements being bound together in at least a plurality of locations along their periphery, and said second element comprising a fiber-based material (see [0018] wool, sheep skin, cotton are all fiber-based material) disposed to contact said saddle; a plurality of pad elements 26 disposed between said first and second flexible elements, said plurality of pad elements having a first shape (see fig. 3 for shape) and adapted to straddle the spine of said equine with at least a portion of said plurality disposed within said saddle pad and sufficiently distant from said spine such that the movement of the spine of said equine is substantially unimpeded by said saddle and said pad elements during riding, first and second restraining straps 38,42 affixed to at least said second flexible element, said straps each being adapted for substantially concealed tethering to said saddle; wherein said pad elements comprise a profile (the pad having a depth, length, width to create a 3-D object) that interface only with gaps formed in the withers region of said equine so as to prop up only a front portion of said saddle and saddle pad. However, Kwan et al. are silent about said first element comprising sheepskin in direct contact with the skin of said equine; the pad being compressible visco-elastic foam; and at least one peripheral ridge disposed substantially along a front or back periphery of said first and second elements, said

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peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding

As mentioned above, Woods teaches sheepskin in direct contact with the skin of said equine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the first layer of Kwan et al. out of sheepskin as taught by Woods in order to provide comfort and warmth for the horse by having the sheepskin being disposed to contact the skin of said living subject.

As mentioned above, Vasko et al. teach the pad being compressible visco-elastic foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the pads of Kwan et al. out of a visco-elastic foam material as taught by Vasko et al. in order to provide a material that can absorb a significant portion of the shock or energy transferred between the rider and the horse and to allow recovery before the next shock or energy transfer (Vasko et al., col. 3, lines 34-40). In addition, Vasko et al. teach at least one peripheral ridge 19 disposed substantially along a front or back periphery of said first and second elements, said peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ at least one peripheral ridge as taught by Vasko et al. along a front or back periphery of said first and second elements of Kwan et al. in order to bind the first and second elements together and to further reinforce the saddle pad.

Response to Arguments

10. Applicant's arguments with respect to claims 70-77,80-89,91-95,98-105 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son T. Nguyen/
Primary Examiner, Art Unit 3643